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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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John Harvey

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EXAMINER

SAMPLE, JONATHAN L

ART UNIT

PAPER NUMBER

3664

NOTIFICATION DATE

DELIVERY MODE

05/12/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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us-docketing@qualcomm.com

Office Action Summary	Application No. 10/674,041	Applicant(s) HARVEY ET AL.	
	Examiner JONATHAN L. SAMPLE	Art Unit 3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/2/2011</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Pursuant to communications filed on 23 February 2011, amendments and/or arguments have been entered into the application file. Receipt is acknowledged of the Information Disclosure Statement received on 02 March 2011, and has also been placed in the application file. Claims 20-63 are currently pending in the instant application.

Response to Arguments

1. Applicant's arguments filed 23 February 2011 have been fully considered but they are not persuasive. Applicant first argues the 35 U.S.C. 102(e) rejections, on pages 11-12 of the Remarks. Applicant goes on to argue the 35 U.S.C. 103(a) rejections on page 13 of the Remarks. Applicant additionally argues the final limitation in independent claims 62 and 63, regarding notification of validation to a third party. These sections have been individually addressed below.

Rejections under 35 U.S.C. 102(e)

Applicant argues wherein the prior art fails to teach the element of "receiving from said remote location a reply message specifying which of said selected functions the operator is validated to operate". Examiner respectfully disagrees and notes Figure 3 and paragraph 0025, wherein:

At block 44, response center 10 validates the user by verifying the user's password and or other unique/private information. The system determines an appropriate message to communicate to the vehicle operator...if the vehicle operator has responded with a valid user ID and password, an appropriate message is sent to the vehicle operator and to the telematics control unit 13 for decoding, as represented by block 50. At block 52, the RKE transmitter transmits the appropriate

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code to RKE receiver to command the particular vehicle sub-system or component to perform the requested service. After the requested service has been carried out and no additional requests are indicated by the vehicle operator, the current session with the response center is terminated, as represented by block 54.

As indicated by the above referenced section, upon a successful validation, the remote center issues a reply message indicating said validation of the selected sub-system/function requested. Examiner further notes wherein during the communication session, the vehicle operator is permitted to request one or a plurality of system/function requests. Therefore, Examiner construes wherein when the vehicle operator requests for activation/access to various (multiple) vehicle system(s)/function(s), then upon successful validation, the vehicle operator is capable of activating/accessing said various (multiple) vehicle system(s)/function(s).

Rejections under 35 U.S.C. 103(a)

Applicant argues similar limitations argued in the above rejections under 35 U.S.C. 102(e), and for the same reasons provided in the above response to arguments for the 35 U.S.C. 102(e) rejections, dependent claims 25-31, 37-43 and 49-61 remain rejected for containing the same deficiencies as their respective base claims.

Arguments regarding Third Party Notification

Applicant argues wherein "the Examiner's allegation that sending a notification of the validation to a third party is inherent, is incorrect." Examiner respectfully disagrees, and contends wherein in the instance when a vehicle operator accesses the human interface to request services from a telematics service center, such as road side

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assistance (paragraph 0014), then based on the validation algorithm in Figure 3 of Nietupski, once the user is validated, the telematics service center would send notification to the appropriate road side assistance entity for said road side assistance. Examiner further contends wherein said notification sent to said road side assistance entity would implicitly be notification of a validated vehicle operator requesting said road side assistance.

Conclusion Regarding Arguments

Accordingly, Applicants Arguments are unpersuasive and remain rejected as indicated below. Based off of Applicant's understanding of the rejections as reflected in the arguments, Examiner has augmented below the referenced prior art sections to further clarify said rejections.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 20-24, 32-36 and 44-48** are rejected under 35 U.S.C. 102(e) as being anticipated by Nietupski et al (US 2002/0140545 A1, hereinafter "Nietupski").

Regarding claim 20, Nietupski discloses an apparatus at a vehicle location for validating a vehicle operator to operate selected functions of a vehicle, comprising: an input device (Figure 1, telematics unit 13) for entry of vehicle operator identification information (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); a transceiver (Figure 1, wireless communication device 14) for transmitting said vehicle operator identification information to a remote location for validation and receiving from said remote location a reply message specifying which of said selected functions the operator is validated to operate and specifying at least one action to be taken to indicate the validation to the vehicle operator (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); and means for enabling (Figure 3, block 50) said selected functions and the at least one action specified by said reply message (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026).

Regarding claim 32, Apparatus at a vehicle location for validating a vehicle operator to operate selected functions of a vehicle, comprising: an input device (Figure 1, telematics unit 13) for entry of vehicle operator identification information (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); a transceiver (Figure 1, wireless communication device 14) for transmitting a message to a remote location at which vehicle functions are selected based upon said operator identification information, and receiving from said remote location a reply message specifying which of said selected functions the operator is validated to operate and specifying at least one action to be taken to indicate the validation to the vehicle operator (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); and means for

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enabling (Figure 3, block 50) said selected functions and the at least one action specified by said reply message (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026).

Regarding claim 44, a method for validating a vehicle operator to operate selected functions of a vehicle, comprising: entering vehicle operator identification information into a device located at said vehicle (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); transmitting said vehicle operator identification information to a remote location for validation (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); receiving from said remote location a reply message specifying which of said selected functions the operator is validated to operate and specifying at least one action to be taken to indicate the validation to the vehicle operator (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); and enabling said selected functions and the at least one action specified by said reply message (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026).

Regarding claims 21-24, 33-36 and 45-48, Nietupski discloses wherein the at least one action may comprise a plurality of remote services including vehicle horn actuation and vehicle interior and exterior lighting actuation (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026). Examiner construes wherein actuation of said interior and/or exterior lights of a vehicle includes at least a vehicle's headlights, tail light(s), and/or interior light(s).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claims 25-31, 37-43, 49-63** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nietupski et al (US 2002/0140545 A1, hereinafter "Nietupski") in view of Murphy (US 6,232,874 B1).

The teachings of Nietupski have been discussed above.

Regarding claims 25-31, 37-43 and 49-55, Nietupski discloses wherein a vehicle telematics unit is in communication with a response center, which validates a user based on user provided identification information. Nietupski further discloses, based on a successful validation of said user, the service center is sends a message to the user and telematics unit for performing the desired service (activation/disablement),

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which may include a particular vehicle subsystem or component of the vehicle (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026). However, Nietupski is silent regarding specifically (re claims 25, 37 and 49) wherein said selected functions comprise impairing operation of a vehicle associated with said apparatus; (re claims 26, 38 and 50) wherein said impairing operation of said vehicle comprises preventing said vehicle from starting; (re claims 27, 39 and 51) wherein said impairing operation of said vehicle comprises disabling a vehicle ignition system; (re claims 28, 40 and 52) wherein said selected functions comprise impairing a fuel system of said vehicle; (re claims 29, 41 and 53) wherein said impairing operation of said vehicle comprises impairing a vehicle transmission; (re claims 30, 42 and 54) wherein said impairing a vehicle transmission comprises limiting the number of gears that may be used during operation of said vehicle; and (re claims 31, 43 and 55) wherein said selected functions are selected from a group consisting of enabling an operation of the vehicle, specifying a time during which the vehicle may be operated, enabling the vehicle to be started; enabling an ignition system of the vehicle, enabling a fuel system of the vehicle, and limiting a number of gears that may be used, during operation of the vehicle, establishing a distance over which the vehicle may be driven.

Murphy discloses a system for restricting use of a vehicle control functions to a user based on the user's identification information. Murphy also discloses wherein the system includes an apparatus with a telecommunication module for exchanging information with a remote facility (i.e. validation of user, authorization of vehicle functions, etc.). Murphy goes on to disclose wherein based on the user's identification

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information, a plurality of control actions may be performed, including at least disabling the vehicle ignition system, disabling the vehicle fuel system, impairing the vehicle transmission by further limiting the number of gears that may be used and enabling a permitted distance and/or time range for a user to drive said vehicle (abstract; Figures 1, 2 & 6; at least column 5, lines 33-65, column 7, lines 20-33 and lines 53-67 and column 13, line 29-column 14, line 47). Therefore, based on the teachings of Murphy, it would have been obvious to one of ordinary skill in the art at the time of the invention to include with the teachings of Nietupski, (re claims 25, 37 and 49) wherein said selected functions comprise impairing operation of a vehicle associated with said apparatus; (re claims 26, 38 and 50) wherein said impairing operation of said vehicle comprises preventing said vehicle from starting; (re claims 27, 39 and 51) wherein said impairing operation of said vehicle comprises disabling a vehicle ignition system; (re claims 28, 40 and 52) wherein said selected functions comprise impairing a fuel system of said vehicle; (re claims 29, 41 and 53) wherein said impairing operation of said vehicle comprises impairing a vehicle transmission; (re claims 30, 42 and 54) wherein said impairing a vehicle transmission comprises limiting the number of gears that may be used during operation of said vehicle; and (re claims 31, 43 and 55) wherein said selected functions are selected from a group consisting of enabling an operation of the vehicle, specifying a time during which the vehicle may be operated, enabling the vehicle to be started; enabling an ignition system of the vehicle, enabling a fuel system of the vehicle, and limiting a number of gears that may be used, during operation of the vehicle, establishing a distance over which the vehicle may be driven, since Murphy

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discloses wherein the limiting of vehicle functions to a user based on their identification provides for more efficient use of a vehicle, especially pertaining to fleet management, wherein vehicles are only permitted for use during a specified time and/or location.

Examiner contends wherein based on the functionality provided in the teachings of Murphy, in the event of a stolen vehicle, a remote operator/facility has the capabilities to disable a desired vehicle function.

Regarding claims 56-61, Nietupski discloses wherein the system sends a reply message to the vehicle operator, indicating whether or not a user has provided valid user identification (Figure 3; at least paragraph 0025). Nietupski is silent regarding specifically (re claims 56, 58 and 60) wherein the reply message further specifies at least one message for the vehicle operator; and (re claims 57, 59 and 61) wherein the at least one message comprises at least one of a route of travel for the vehicle, an itinerary for the vehicle, and a personal message for the vehicle operator.

Murphy discloses wherein the system further includes a visual and/or audible display module, which presents information to a user, specifically restrictions pertaining to said user based on the submitted user identification information (abstract; Figures 1, 2 & 6; at least column 5, lines 33-65, column 7, lines 20-33 and lines 53-67 and column 13, line 29-column 14, line 47). Examiner notes wherein the information provided to the driver is personal information pertaining to that driver. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include with the teachings of Nietupski, (re claims 56, 58 and 60) wherein the reply message further specifies at least one message for the vehicle operator; and (re claims 57, 59 and 61)

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wherein the at least one message comprises at least one of a route of travel for the vehicle, an itinerary for the vehicle, and a personal message for the vehicle operator, since Murphy discloses wherein messages are provided to a user of a vehicle based on their identification, to more efficiently aid said user of the vehicle use restrictions.

Claim Rejections - 35 USC § 102

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. **Claims 62 and 63** are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nietupski et al (US 2002/0140545 A1, hereinafter "Nietupski").

Regarding claim 62, an apparatus for validating, at a remote location, a vehicle operator to operate selected functions of a vehicle, comprising: a transceiver configured to receive vehicle operator identification information and configured to transmit a reply message to the vehicle (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); and a processor configured to validate the operator identification information, configured to generate the reply message specifying which of said selected functions the operator is validated to operate, and configured to generate a notification of the validation and to transmit the notification to a third party (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026). Examiner notes wherein Nietupski performs the algorithm/flow chart shown in Figure 3, to perform a variety of services, such as assistance for emergencies, navigational information and concierge type functions. Examiner contends wherein in the instance when a vehicle operator accesses the human interface to request services from a telematics service center, such as road side assistance (paragraph 0014), then based on the validation algorithm in Figure 3 of Nietupski, once the user is validated, the telematics service center would send notification to the appropriate road side assistance entity for said road side assistance. Examiner further contends wherein said notification sent to said road side assistance entity would implicitly be notification of a validated vehicle operator requesting said road side assistance. Examiner also notes wherein Nietupski fails to disclose the specific structure that is included in the remote telematics service center, however based on the disclosure, it is evident that the telematics service center is in communication with said vehicle telematics unit, and as clearly indicated by Figure 3,

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includes transmitting and receiving capabilities. Further, a processing based device would be obvious, if not inherent, to process the received information, and used to send messages/signals between the telematics service center and the vehicle telematics unit. Therefore, it would have been obvious, if not inherent, to include a transceiver and a processor at the remote telematics facility for use in said system, providing more efficient communication of information between the telematics service center and the vehicle telematics unit.

Regarding claim 63, a method for validating, at a remote location, a vehicle operator to operate selected functions of a vehicle, comprising: receiving vehicle operator identification information (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); validating the operator identification information (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); generating a reply message specifying which of said selected functions the operator is validated to operate (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); transmitting the reply message to the vehicle (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026); and generating a notification of the validation for a third party (abstract; Figures 1 & 3; at least paragraphs 0006, 0010-0016 and 0021-0026). Examiner notes wherein Nietupski performs the algorithm/flow chart shown in Figure 3, to perform a variety of services, such as assistance for emergencies, navigational information and concierge type functions. Examiner contends wherein in the instance when a vehicle operator accesses the human interface to request services from a telematics service center, such as road side assistance (paragraph 0014), then

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based on the validation algorithm in Figure 3 of Nietupski, once the user is validated, the telematics service center would send notification to the appropriate road side assistance entity for said road side assistance. Examiner further contends wherein said notification sent to said road side assistance entity would implicitly be notification of a validated vehicle operator requesting said road side assistance. Examiner also notes wherein Nietupski fails to disclose the specific structure that is included in the remote telematics service center, however based on the disclosure, it is evident that the telematics service center is in communication with said vehicle telematics unit, and as clearly indicated by Figure 3, includes transmitting and receiving capabilities. Further, a processing based device would be obvious, if not inherent, to process the received information, and used to send messages/signals between the telematics service center and the vehicle telematics unit. Therefore, it would have been obvious, if not inherent, to include a transceiver and a processor at the remote telematics facility for use in said system, providing more efficient communication of information between the telematics service center and the vehicle telematics unit.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN L. SAMPLE whose telephone number is (571)270-5925. The examiner can normally be reached on Monday-Thursday, 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on (571)272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. L. S./
Examiner, Art Unit 3664

/KHOI TRAN/
Supervisory Patent Examiner, Art Unit 3664